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17 **UNITED STATES DISTRICT COURT**
18
19 **NORTHERN DISTRICT OF CALIFORNIA**
20
21 **SAN FRANCISCO DIVISION**

21 RICHARD KADREY, *et al.*,
22 Individual and Representative Plaintiffs,
23 v.
24 META PLATFORMS, INC., a Delaware
corporation;
25 Defendant.

Case No. 3:23-cv-03417-VC-TSH

**DECLARATION OF KATHLEEN HARTNETT
IN SUPPORT OF DEFENDANT META
PLATFORMS, INC.'S OPPOSITION TO
PLAINTIFFS' MOTION FOR LEAVE TO FILE
THIRD AMENDED CONSOLIDATED
COMPLAINT**

1 I, Kathleen Hartnett, declare:

2 1. I am a Partner at the law firm of Cooley LLP and counsel to Meta Platforms, Inc. in
3 the above-referenced matter. I have personal knowledge of the facts contained in this Declaration
4 and, if called as a witness, could competently testify to them under oath.

5 2. The Declaration of Joshua M. Stein (“Stein Declaration”) attaches documents that
6 Plaintiffs rely on in support of their Motion to Amend. Working with our discovery team, I
7 confirmed when Meta produced various documents attached to the Stein Declaration. Exhibit 7 to
8 the declaration of Joshua M. Stein (“Stein Declaration”) is a document produced by Meta in this
9 litigation beginning with Bates number Meta_Kadrey_00089791 and titled “Libgen dataset: 650B*
10 clean & deduped tokens.” This document was produced by Meta on **August 15, 2024**.

11 3. Another version of the document titled “Libgen dataset: 650B* clean & deduped
12 tokens” was produced by Meta from another Meta source on **July 15, 2024**, beginning with Bates
13 number Meta_Kadrey_00065244. A true and correct copy of this document is attached hereto as
14 **Exhibit A**.

15 4. That document (Meta_Kadrey_00065244) was also marked as Exhibit 26 during the
16 deposition of Todor Mihaylov (*see* Exhibit D, Tr. at 113:2–3), which Plaintiffs took on September
17 19, 2024, and was referenced extensively during that deposition. A true and correct copy of the
18 marked exhibit, as used in the Mihaylov deposition, is attached hereto as **Exhibit B**.

19 5. Attached hereto as **Exhibit C** is a true and correct copy of an excerpt of the transcript
20 of the deposition of Todor Mihaylov, which took place on September 19, 2024.

21 6. Attached hereto as **Exhibit D** is a true and correct copy of an excerpt of the transcript
22 of the deposition of Melanie Kambadur, which took place on September 17, 2024.

23 7. Separately, I am aware that the deposition of Eleanora Presani, which Plaintiffs took
24 on September 26, 2024, extensively covered Meta’s acquisition and use of the Libgen dataset, with
25 dozens of references to Libgen throughout the deposition, as well as questioning regarding alleged
26 data “piracy.”
27
28

8. Exhibit 8 to the Stein Declaration is a document beginning with Bates number Meta_Kadrey_00048149, which Meta produced to Plaintiffs on July 15, 2024.

9. Attached hereto as **Exhibit E** is a true and correct copy of excerpts of the transcript of the deposition of Ahmad Al-Dahle, which took place on October 3, 2024.

10. On September 16, 2024, Meta produced a document beginning with Bates number Meta_Kadrey_00093346 entitled “Observations on Libgen-SciMag.” This document contains the Meta employee comments Meta later produced in freestanding form, which Plaintiffs submitted as Exhibit 2 to the Stein Declaration. A true and correct copy of Meta_Kadrey_00093346 is attached hereto as **Exhibit F**.

11. Meta’s September 16, 2024 production included a document entitled “Data Review: libgen-fiction-books” (beginning with Bates number Meta_Kadrey 00093349), which includes a comment stating that “[c]urrently we are removing all the copyright paragraphs from the beginning and end of the document,” and a document entitled “Fair-Use Lib: 400B+ New Clean (+325B more to come)” (beginning with Bates number Meta_Kadrey 00093383), which describes the removal of “copyright sections” as part of “General post-processing steps/filtering.” True and correct copies of Meta_Kadrey 00093349 and Meta_Kadrey 00093383 are attached hereto as **Exhibit G** and **Exhibit H**, respectively.

12. Attached hereto as **Exhibit I** are true and correct copies of excerpts of Plaintiffs Snyder’s, Woods’s, and Klam’s Amended and Second Amended Responses to Meta’s Second Requests for Admissions. The responses and requests relevant to Meta’s Opposition have been highlighted for ease of reference.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 11th day of December 2024 in Oakland, CA.

/s/ Kathleen Hartnett
Kathleen Hartnett

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